

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SAULIUS SIMOLIUNAS

Plaintiff(s),

CASE NO. 06-11465

VS.

DISTRICT JUDGE PAUL V. GADOLA
MAGISTRATE JUDGE STEVEN D. PEPE

CITY OF DETROIT,

Defendant.

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ORDER DENYING DEFENDANT’S MOTION TO COMPEL (DKT. #13)

Defendant’s motion to compel Plaintiff’s deposition was referred to the undersigned for hearing and determination.

The parties agree that Defendant noticed Plaintiff’s deposition on September 15, 2006, to be taken October 17, 2006. Plaintiff argues that his deposition should not be compelled because it was scheduled to take place outside the close of discovery, September 18, 2006.

The scheduling order issued by Judge Paul V. Gadola, specifies that discovery is to be “completed by” September 18, 2006, and further indicates that the Court will “not order discovery to take place subsequent to that date absent an adequate showing of extraordinary circumstances” (Dkt. #5).

Plaintiff does not provide a showing of extraordinary circumstances, nor even attempt to excuse its failure to complete the deposition within the discovery period. Instead, Defendant relies upon the fact the deposition was noticed before the close of discovery. Yet, the scheduling order quite clearly indicates that discovery was to be “completed” on September 18, not just “noticed” by that date.

Therefore, Defendant's motion is DENIED.

SO ORDERED.

Dated: 5 December 2006
Ann Arbor, MI

s/Steven D. Pepe
United States Magistrate Judge

Certificate of Service

I hereby certify that on December 5, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Valerie A. Colbert-Osamuede, and I hereby certify that I have mailed by United States Postal Service a copy of the paper to the following non-ECF participant(s) Saulius Simoliunas, 665 W. Warren Ave., Detroit, MI 48201.

s/James P. Peltier
Courtroom Deputy Clerk
U.S. District Court
600 Church St.
Flint, MI 48502
810-341-7850
pete_peltier@mied.uscourts.gov